

# United States Court of Appeals For the First Circuit

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No. 11-1952

JAMES LOVGREN; NEW HAMPSHIRE COMMERCIAL FISHERMEN'S ASSOCIATION;  
PAUL THERIAULT; CHUCK WEIMER; DAVID ARIPOCH; TEMPEST FISHERIES, LTD.;  
GRACE FISHING, INC.; RICHARD GRACHEK; ROANOKE FISH CO., INC.; AMERICAN  
ALLIANCE OF FISHERMEN AND THEIR COMMUNITIES; NEW BEDFORD FISH  
LUMPERS PENSION PLAN; ATLANTIC COAST SEAFOOD, INC.; LYDIA & MAYA, INC.;  
JOHN & NICHOLAS, INC.; BERGIE'S SEAFOOD, INC.; NORDIC, INC.; LYMAN  
FISHERIES, INC.; THE HOPE II, INC.; REIDAR'S MANUFACTURING, INC.; DIAMOND  
DOG FISHING CORP.; ATLANTIC ENTERPRISES, LLC; WANCHESE FISH COMPANY;  
EASTER JOY, INC.; LOCAL 1749 ILA, AFL-CIO, NEW BEDFORD FISH LUMPERS  
PENSION PLAN,

Plaintiffs,

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CITY OF NEW BEDFORD; CITY OF GLOUCESTER,

Plaintiffs, Appellants,

v.

THE HONORABLE GARY LOCKE, Secretary of Commerce; THE NATIONAL OCEANIC  
AND ATMOSPHERIC ADMINISTRATION, (NOAA); THE NATIONAL MARINE  
FISHERIES SERVICE, (NMFS); CONSERVATION LAW FOUNDATION, INC.; JANE  
LUBCHENCO, Administrator of the National Oceanic and Atmospheric Administration,

Defendants, Appellees,

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ATLANTIC COASTAL COOPERATIVE STATISTICS PROGRAM, (ACCSP); ATLANTIC  
STATES MARINE FISHERIES COMMISSION, (ASMFC),

Defendants.

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No. 11-1964

JAMES LOVGREN,

Plaintiff, Appellant,

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CITY OF NEW BEDFORD; NEW HAMPSHIRE COMMERCIAL FISHERMEN'S ASSOCIATION; PAUL THERIAULT; CHUCK WEIMER; DAVID ARIPOTCH; TEMPEST FISHERIES, LTD.; GRACE FISHING, INC.; RICHARD GRACHEK; ROANOKE FISH CO., INC.; AMERICAN ALLIANCE OF FISHERMEN AND THEIR COMMUNITIES; NEW BEDFORD FISH LUMPERS PENSION PLAN; CITY OF GLOUCESTER; ATLANTIC COAST SEAFOOD, INC.; LYDIA & MAYA, INC.; JOHN & NICHOLAS, INC.; BERGIE'S SEAFOOD, INC.; NORDIC, INC.; LYMAN FISHERIES, INC.; THE HOPE II, INC.; REIDAR'S MANUFACTURING, INC.; DIAMOND DOG FISHING CORP.; ATLANTIC ENTERPRISES, LLC; WANCHESE FISH COMPANY; EASTER JOY, INC.; LOCAL 1749 ILA, AFL-CIO, NEW BEDFORD FISH LUMPERS PENSION PLAN,

Plaintiffs,

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v.

THE HONORABLE GARY LOCKE, Secretary of Commerce; THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, (NOAA); THE NATIONAL MARINE FISHERIES SERVICE, (NMFS); CONSERVATION LAW FOUNDATION, INC.; JANE LUBCHENCO, Administrator of the National Oceanic and Atmospheric Administration,

Defendants, Appellees,

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ATLANTIC COASTAL COOPERATIVE STATISTICS PROGRAM, (ACCSP); ATLANTIC STATES MARINE FISHERIES COMMISSION, (ASMFC),

Defendants.

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No. 11-1987

JAMES LOVGREN; CITY OF NEW BEDFORD; PAUL THERIAULT; CHUCK WEIMER;  
TEMPEST FISHERIES, LTD.; GRACE FISHING, INC.; ROANOKE FISH CO., INC.; NEW  
BEDFORD FISH LUMPERS PENSION PLAN; CITY OF GLOUCESTER; ATLANTIC  
COAST SEAFOOD, INC.; LYDIA & MAYA, INC.; JOHN & NICHOLAS, INC.; BERGIE'S  
SEAFOOD, INC.; NORDIC, INC.; LYMAN FISHERIES, INC.; THE HOPE II, INC.;  
REIDAR'S MANUFACTURING, INC.; DIAMOND DOG FISHING CORP.; ATLANTIC  
ENTERPRISES, LLC; WANCHESE FISH COMPANY; EASTER JOY, INC.; LOCAL 1749  
ILA, AFL-CIO, NEW BEDFORD FISH LUMPERS PENSION PLAN,

Plaintiffs,

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NEW HAMPSHIRE COMMERCIAL FISHERMEN'S ASSOCIATION; DAVID ARIPOTCH;  
RICHARD GRACHEK; AMERICAN ALLIANCE OF FISHERMEN AND THEIR  
COMMUNITIES,

Plaintiffs, Appellants,

v.

THE HONORABLE GARY LOCKE, Secretary of Commerce; THE NATIONAL OCEANIC  
AND ATMOSPHERIC ADMINISTRATION, (NOAA); THE NATIONAL MARINE  
FISHERIES SERVICE, (NMFS); CONSERVATION LAW FOUNDATION, INC.; JANE  
LUBCHENCO, Administrator of the National Oceanic and Atmospheric Administration,

Defendants, Appellees,

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ATLANTIC COASTAL COOPERATIVE STATISTICS PROGRAM, (ACCSP); ATLANTIC  
STATES MARINE FISHERIES COMMISSION, (ASMFC),

Defendants.

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No. 11-2001

JAMES LOVGREN; CITY OF NEW BEDFORD; NEW HAMPSHIRE COMMERCIAL FISHERMEN'S ASSOCIATION; PAUL THERIAULT; CHUCK WEIMER; DAVID ARIPOTCH; RICHARD GRACHEK; AMERICAN ALLIANCE OF FISHERMEN AND THEIR COMMUNITIES; NEW BEDFORD FISH LUMPERS PENSION PLAN; CITY OF GLOUCESTER; ATLANTIC COAST SEAFOOD, INC.; REIDAR'S MANUFACTURING, INC.; LOCAL 1749 ILA, AFL-CIO; NEW BEDFORD FISH LUMPERS PENSION PLAN,

Plaintiffs,

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TEMPEST FISHERIES, LTD.; GRACE FISHING, INC.; ROANOKE FISH CO., INC.; LYDIA & MAYA, INC.; JOHN & NICHOLAS, INC.; BERGIE'S SEAFOOD, INC.; NORDIC, INC.; LYMAN FISHERIES, INC.; THE HOPE II, INC.; DIAMOND DOG FISHING CORP.; ATLANTIC ENTERPRISES, LLC; WANCHESE FISH COMPANY; EASTER JOY, INC.

Plaintiffs, Appellants,

v.

THE HONORABLE GARY LOCKE, Secretary of Commerce; THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, (NOAA); THE NATIONAL MARINE FISHERIES SERVICE, (NMFS); CONSERVATION LAW FOUNDATION, INC.; JANE LUBCHENCO, Administrator of the National Oceanic and Atmospheric Administration,

Defendants, Appellees,

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ATLANTIC COASTAL COOPERATIVE STATISTICS PROGRAM, (ACCSP); ATLANTIC STATES MARINE FISHERIES COMMISSION, (ASMFC),

Defendants.

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**JUDGMENT**

Entered: November 28, 2012

This cause came on to be heard on appeal from the United States District Court for the District of Massachusetts and was argued by counsel.

Upon consideration whereof, it is now here ordered, adjudged and decreed as follows: The judgment of the district court is affirmed.

By the Court:

/s/ Margaret Carter, Clerk

cc: Thomas M. Bond, Patrick Francis Flanigan, John Farrell Folan, Eldon V.C. Greenberg, James F. Kavanaugh, Jr., Pamela F. Lafreniere, Scott W. Lang, Mikaela Ann McDermott, Stephen Michael Ouellette, Julie K. Peterson, Michael Thomas Sullivan, Gigi D. Tierney, Dina Michael Chaitowitz, Andrea Gelatt, Anton P. Giedt, Robert J. Lundman, James A. Maysonett, Bradley H. Oliphant, Joan M. Pepin, Peter Shelley, Daniel John Hammond, John M. Stevens, Roger M. Fleming, Hope M. Babcock, Kelly D. Davis and Arthur Paul Kreiger.